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9 Attorneys for the United States of America

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,)	CASE NO. CR 13-00510 EJD
14 v.)	STIPULATION AND PROPOSED PROTECTIVE
15 EDUARDO ARRIAGA,)	ORDER REGARDING DISCOVERY MATERIALS
16)	
17 Defendant.)	
18)	

19 With the agreement of the parties and defendant's consent, the Court enters the following Order.

20 Defendant is charged with a violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(viii),
21 Possession with Intent to Distribute and Distribution of Methamphetamine, and 18 U.S.C. § 924(c) Use
22 of a Firearm in Relation to a Drug Trafficking Crime. Per defendant's request, the United States will
23 produce documents and audio and video recordings pertaining to the defendant and the charged drug
24 transaction (hereinafter, the "DISCOVERY MATERIALS") to defense counsel, in lieu of making those
25 DISCOVERY MATERIALS available for review only. Any such materials are deemed produced
26 pursuant to the following restrictions:
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1 1. Except when actively being examined for the purpose of the preparation of the
2 defense of defendant, the DISCOVERY MATERIALS shall be maintained in a locked, safe, and secure
3 drawer, cabinet, or safe or password-protected electronic device (e.g., computer, memory stick), which
4 is accessible only to defense counsel, members of his or her law firm who are working with him or her
5 to prepare defendant's defense, and his or her investigator(s). Defense counsel, members of his or her
6 law firm, defendant, and the investigator(s) shall not permit any person access of any kind to the
7 DISCOVERY MATERIALS except as set forth below.

8 2. The following individuals may examine the DISCOVERY MATERIALS for the
9 sole purpose of preparing the defense of defendant and for no other purpose:

- 10 a) counsel for defendant;
- 11 b) members of defense counsel's law office or other individuals working
12 with defense counsel who are assisting with the preparation of defendant's
13 defense;
- 14 c) defendant, but only in the presence of defense counsel or another
15 authorized person listed in this paragraph (defendant may not take or
16 maintain the DISCOVERY MATERIALS or copies thereof); and
- 17 d) investigators retained by defendant to assist in the defense of this matter.

18 If defense counsel determines that additional persons are needed to review the
19 DISCOVERY MATERIALS, he or she must obtain a further order of the Court before allowing any
20 other individual to review the materials.

21 3. A copy of this Order shall be maintained with the DISCOVERY MATERIALS at
22 all times.

23 4. All individuals other than defense counsel and defendant who receive access to
24 the DISCOVERY MATERIALS, prior to receiving access to the materials, shall sign a copy of this
25 Order acknowledging that:

- 26 a) they have reviewed the Order;
- 27 b) they understand its contents;

- 1 c) they agree that they will only access the DISCOVERY MATERIALS for
2 the purposes of preparing a defense for defendant; and
3 d) they understand that failure to abide by this Order may result in sanctions
4 by this Court.

5 Counsel for defendant shall either: (1) send signed copies of the Order to counsel
6 for the United States; or (2) file signed copies of the Order, ex parte and under seal. The United States
7 shall have no access to the signed copies filed under seal without further order of the Court.

8 5. No other person shall be allowed to examine the DISCOVERY MATERIALS
9 without further order of the Court. Examination of the DISCOVERY MATERIALS shall be done in a
10 secure environment which will not expose the materials to other individuals not listed above.

11 6. The DISCOVERY MATERIALS may be duplicated to the extent necessary to
12 prepare the defense of this matter. Any duplicates will be treated as originals in accordance with this
13 Order.

14 7. If the DISCOVERY MATERIALS are attached to any pleadings or other court
15 submissions, the DISCOVERY MATERIALS and any pleadings or submissions referencing those
16 materials shall be filed or lodged under seal.

17 8. The defense team shall return the DISCOVERY MATERIALS (and any duplicate
18 copies of the same) to the United States fourteen calendar days after any one of the following events,
19 whichever is latest in time, occurs: dismissal of all charges against defendant; defendant's acquittal by
20 court or jury; or the conclusion of any direct appeal.

21 9. After the conclusion of proceedings in the district court or any direct appeal in the
22 above-captioned case, the United States will maintain a copy of the DISCOVERY MATERIALS. The
23 United States will maintain the DISCOVERY MATERIALS until the time period for filing a motion
24 pursuant to 28 U.S.C. § 2255 has expired. After the statutory time period for filing such a motion has
25 expired, the United States may destroy the DISCOVERY MATERIALS. In the event defendant is
26 represented by counsel and files a motion pursuant to 28 U.S.C. § 2255, the United States will provide
27 that counsel with a copy of the DISCOVERY MATERIALS under the same restrictions as trial and
28 direct appeal defense counsel. Defendant's attorney in any action under 28 U.S.C. § 2255 shall return

1 the same materials fourteen calendar days after the district court's ruling on the motion or fourteen
2 calendar days after the conclusion of any direct appeal of the district court's denial of the motion,
3 whichever is later.

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5 MELINDA HAAG
United States Attorney

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7 Dated: October 21, 2013

8 /s/
STEPHEN MEYER
Assistant United States Attorney

9
10
11 Dated: October 21, 2013

12 /s/
JACK GORDON
Counsel for defendant Eduardo Arriaga

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14 IT IS SO ORDERED that disclosure of the above-described materials shall be restricted as set
forth above.

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16 DATED: October 23, 2013

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HONORABLE PAUL S. GREWAL
United States Magistrate Judge